UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Alexandria Division

:

MARIA DIAZ-CASTRO,

Plaintiff,

v.

Civil Action No. 17cv830-CMH-IDD

CRS FACILITY SERVICES, LLC,

Defendant.

TRIAL BY JURY DEMANDED

MOTION FOR LEAVE TO WITHDRAW AS LEGAL COUNSEL

Pursuant to Local Civil Rules 7 and 83.1(g), counsel for Plaintiff, Maria Diaz-Castro ("<u>Plaintiff</u>"), files this consented motion for leave to withdraw as legal counsel ("<u>Motion</u>"). In support of this Motion, undersigned counsel states as follows:

- 1. Plaintiff brings this action against her former employer, CRS Facility Services, LLC ("<u>Defendant</u>"), for, *inter alia*, alleged discriminatory conduct and practices by Defendant as it relates to Plaintiff's age and national origin. Compl., ¶ 3-4 [DE 1].
- 2. Defendant was served with the Complaint on September 27, 2017. Accordingly, Defendant's deadline for a response was set for October 18, 2017. [DE 3].
- 3. On October 17, 2017, Plaintiff moved for an extension of time for Defendant to respond to the Complaint ("<u>First Request</u>"). [DE 4].
- 4. On October 18, 2017, this Court granted Plaintiff's First Request, resetting Defendant's deadline for a response for November 8, 2017. [DE 6].
- 5. On November 7, 2017, Plaintiff moved for a second extension of time for Defendant to respond to the Complaint ("Second Request"). [DE 7].

- 6. On November 7, 2017, this Court granted Plaintiff's Second Request, resetting Defendant's deadline for a response for November 29, 2017. [DE 9].
- 7. On November 28, 2017, Plaintiff moved for a third extension of time for Defendant to respond to the Complaint ("<u>Final Request</u>"). [DE 10].
- 8. On November 29, 2017, this Court granted Plaintiff's Final Request, resetting Defendant's deadline for a response for December 6, 2017. [DE 11].
- 9. Defendant and Plaintiff, through counsel, engaged in serious settlement negotiations for several months. On December 6, 2017, Plaintiff noticed to this Court that the parties had reached settlement, the terms of which were being finalized, and upon satisfaction of the terms, Plaintiff would dismiss Defendant from this action *with* prejudice.
- 10. On December 19, 2017, the parties entered into a written settlement agreement (the "Settlement Agreement"), which included, *inter alia*, a release of claims arising under the Older Workers Benefit Protection Act (the "OWBPA"). § 626(f) of the OWBPA permits Plaintiff a 7-day period in which to revoke the Settlement Agreement.
- 11. On December 26, 2017, through both hand delivery and email copy, Plaintiff exercised her right to revoke the Settlement Agreement by delivering notice as set forth under the Settlement Agreement, specifically, to Defendant's counsel.
- 12. Counsel is requesting to withdraw from this action pursuant to Rule 1.16(b) of the Virginia State Bar Rules of Professional Conduct in that, *inter ali*a, there is a fundamental disagreement among undersigned counsel and Plaintiff regarding case proceedings that prevent undersigned counsel from continuing as legal representation in the matter.
- 13. Withdrawing as counsel can be accomplished without impeding the administration of justice, efficiency, or functioning of this Court or the case.

14. Plaintiff is not business entity or active duty military. Plaintiff is an individual

who resides in the Commonwealth of Virginia, specifically at 7425 Arlington Blvd., Falls

Church, VA 22042, where upon information and belief, service may be effectuated, and having a

phone number of 703-528-2445.

15. At the time of filing this Motion, an answer has not been filed by Defendant,

discovery has not yet been propounded by either party, and trial has not yet been set.

16. Undersigned counsel has notified Defendant's counsel of this Motion.

17. Counsel has provided reasonable notice to Plaintiff of his intent to request leave

from this Court to withdraw as counsel and has advised Plaintiff that she should retain new

counsel to represent her in this matter.

For these reasons, undersigned counsel respectfully requests that the Court grant this

Motion. A proposed Order accompanies this Motion.

Date: December 26, 2017

Respectfully submitted,

By: /s/ Robert Powers

Robert Powers, Esq.

MCCLANAHAN POWERS, PLLC

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Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on December 26, 2017, the foregoing *document* was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. The foregoing document was also served upon Plaintiff at the following address:

Maria Diaz-Castro 7425 Arlington Blvd. Falls Church, VA 22042

> By: <u>/s/ Robert Powers</u> Robert Powers